

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
LARAE SCHUNK, individually, and as Personal)	
Representative of the Estates of CLAYTON C.)	
HEINRICH and LEONA J. HEINRICH; RONALD)	
HEINRICH; TAREN HOFFMAN; CLAYTON)	
“CLYNN” HEINRICH; TAMERA PICKEL; and)	
NEBRASKA DEPARTMENT OF REVENUE,)	
)	
Defendants.)	
_____)	

COMPLAINT

The United States of America, plaintiff herein, alleges as follows:

1. This is a civil action in which the United States seeks to enforce federal tax liens upon the subject property described herein.

2. This action is commenced at the request and with the authorization of a delegate of the Secretary of Treasury and at the direction of the Attorney General pursuant to 26 U.S.C. §§ 7401 and 7403.

Jurisdiction and Venue

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402 and 7403.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1396 because this is the district where the real property that is the subject of this action is located and where the tax liability underlying this action accrued.

Defendants

5. Clayton C. Heinrich was the taxpayer against whom federal income tax assessments associated with the federal tax liens were made. He was the husband of Leona J. Heinrich. Clayton C. Heinrich died May 18, 2014. LaRae Schunk is named as a defendant in this action as a Personal Representative of Clayton C. Heinrich's estate.

6. Leona J. Heinrich was the taxpayer against whom federal tax assessments associated with the federal tax liens were made. She was the wife of Clayton C. Heinrich. Leona J. Heinrich died March 27, 2014. LaRae Schunk is named as a defendant in this action as a Personal Representative of Leona J. Heinrich's estate.

7. LaRae Schunk is named as a defendant in her individual capacity pursuant to 26 U.S.C. § 7403(b) because she may claim an interest in the real property at issue in this action.

8. Ronald Heinrich is named as a defendant pursuant to 26 U.S.C. § 7403(b) because he may claim an interest in the real property at issue in this action.

9. Taren Hoffman is named as a defendant pursuant to 26 U.S.C. § 7403(b) because she may claim an interest in the real property at issue in this action.

10. Clayton "Clynn" Heinrich is named as a defendant pursuant to 26 U.S.C. § 7403(b) because he may claim an interest in the real property at issue in this action.

11. Tamera Pickel is named as a defendant pursuant to 26 U.S.C. § 7403(b) because she may claim an interest in the real property at issue in this action. Tamera Pickel was formerly known as Tamera Kort or Tami Kort.

12. Nebraska Department of Revenue is named as a defendant pursuant to 26 U.S.C. § 7403(b) because that office may claim an interest in the real property at issue in this action.

Federal Tax Liabilities

13. A delegate of the Secretary of Treasury made assessments against Clayton C. and Leona J. Heinrich for joint federal income taxes, penalties, and interest on May 24, 2010 (for tax year 2007 liabilities), August 8, 2011 (for tax year 2008), and July 11, 2011 (for tax year 2009).

14. The 2007-2009 federal tax liabilities were previously litigated in this Court in an action brought by the Estate of Clayton C. Heinrich (case no. 8:14-cv-0401-FG3). In an order and judgment entered in that case on March 29, 2016 (docs. 52 and 52), this Court validated the Government's claimed amount and determined that the IRS had effective liens against the decedent's property.

15. Despite notice and demands for payment of the assessed liabilities, Clayton C. and Leona J. Heinrich failed to pay over the amounts assessed against them. There remains due and owing to the United States the sum of \$247,366.49 plus statutory interest and additions accruing after August 2, 2018, for their 2007-2009 federal income tax liabilities.

Federal Tax Lien Enforcement

16. The "subject property" on which the United States seeks to enforce its federal tax liens is located at 102 West Lancaster Street, Blue Hill, Nebraska, and is more particularly described as:

The South Twenty-seven feet (S27') of Lot Two (2) and all of Lots Three (3), Four (4), Five (5), Six (6) and Seven (7), Block Five (5), Grussell's Sub-division of Rohrer's Addition to Blue Hill, Webster County, Nebraska

17. Clayton C. and Leona J. Heinrich acquired ownership of the subject property as joint tenants. Warranty deeds demonstrating their ownership were recorded with the Clerk of Webster County, Nebraska, on July 8, 2005, September 15, 2005, and August 26, 2006.

18. On September 10, 2009, Clayton C. and Leona J. Heinrich executed a warranty deed in which they granted a one-fifth (1/5) interest in the subject property to each of their children---defendants LaRae Schunk, Ronald Heinrich, Taren Hoffman, Clynn Heinrich, and Tami Kort (Tamera Pickel). Clayton C. and Leona J. Heinrich both reserved a life estate in the property. The warranty deed was recorded with the Clerk of Webster County, Nebraska, on September 18, 2009.

19. Clayton C. and Leona J. Heinrich did not receive reasonably equivalent value for the property when they conveyed it to their children in September 2009. The conveyance of the subject property to the children was for no consideration.

20. Clayton C. and Leona J. Heinrich conveyed the property to their children after their 2007 and 2008 federal income tax liabilities had accrued, and after the IRS had contacted them regarding their federal taxes.

21. The conveyance was meant to hinder or delay IRS collection of the federal tax liabilities.

22. The conveyance of the subject property to their children rendered Clayton C. and Leona J. Heinrich insolvent.

23. After the conveyance, Clayton C. and Leona J. Heinrich continued to reside on the subject property, pay all its expenses, and exercise all incidents of its ownership. The children held title to the property as their parents' nominees.

24. In accordance with 26 U.S.C. §§ 6321 and 6322, federal tax liens arose on the assessment dates referred to in paragraph 13, above, in the amount of the assessments plus all additions accruing thereon under law. As a result, the tax liens attached to all property and rights to property of Clayton C. and Leona J. Heinrich, including the subject property.

25. Notices of the federal tax liens were filed with the Clerk of Webster County, Nebraska, on September 22, 2010, September 23, 2011, October 13, 2011, and August 29, 2012. The notices filed on August 12, 2012, identified LaRae Schunk, Ronald Heinrich, Taren Hoffman, Clynn Heinrich, and Tami Kort as transferees/nominees of Clayton C. and Leona J. Heinrich.

26. Because of the foregoing, the federal tax liens may be enforced against the subject property, and that property may be sold.

WHEREFORE, the United States requests that the Court:

(a) Enter judgment that the United States has valid and subsisting federal tax liens for the liabilities described herein against the subject real property located at 102 West Lancaster Street, Blue Hill, Nebraska;

(b) Order that the federal tax liens attaching to the subject property be enforced, that the property be sold, that those persons occupying the property leave and vacate the property, and that the proceeds of sale be disbursed to the United States for application to the federal tax liabilities of Clayton C. and Leona J. Heinrich, and

(c) Grant the United States its costs incurred in the commencement and prosecution of this action, and such other and further relief as the Court deems proper and just.

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Date: August 28, 2018.

Respectfully submitted,

JOSEPH P. KELLY
United States Attorney

/s/ Martin M. Shoemaker
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Plaintiff designates Lincoln as the place of trial.